

EXHIBIT A

**EXHIBIT A: CLAIM TERMS IDENTIFIED FOR CONSTRUCTION FOR
U.S. PATENT NOS. 7,852,995 (“THE ‘995 PATENT”) AND 7,860,225 (“THE ‘225 PATENT”)**

Agreed-Upon Constructions

| Term(s) for Construction | Appears In | Parties’ Agreed-Upon Construction |
|---|---------------------------|---|
| source of the communication / source of an incoming communication | all | A calling party’s equipment from which a communication originates |
| destination of the communication / destination of an incoming communication | all | A called party’s equipment to which a communication is routed |
| the selected audio message | <u>‘995:</u> 6; 13; 19 | The audio message selected in the independent claim from which this claim depends |

Disputed Constructions¹

| No. | Claim Language | Ds’ Construction | Ds’ Intrinsic Evidence Citations | P’s Construction | P’s Intrinsic Evidence Citations |
|---|-----------------------|--|--|-------------------------|---|
| 1. <u>‘995:</u> 1, 8, 15 <u>‘225:</u> | message | Communication conveying advertising or other commercial information about a product or service | <u>‘225 patent:</u> Abstract; 1:38-40; 1:62-2:17; 2:53-64; 4:59-5:61; 5:65-6:18; 6:19-26; 6:32-35; 7:63-64; 9:35-61; 10:28-34; 11:45-48; | ordinary meaning | <u>‘225 patent:</u> Abstract; 1:13-15; 1:62-2:17; 2:53-3:10; 3:11-21; 4:59-65; 4:66-5:10; 5:34-61; 5:62-6:18; 6:19-26; 6:51-7:12; 7:13-37; 9:6-20; 9:21- |

¹ The two patents in suit are related and contain similar specifications. Where the parties have provided citations to one of the two patents, they reserve the right to cite corresponding language from the other patent.

| No. | Claim Language | Ds' Construction | Ds' Intrinsic Evidence Citations | P's Construction | P's Intrinsic Evidence Citations |
|------|----------------|------------------|--|------------------|--|
| 1, 8 | | | <p>12:5-28; Figs. 1, 8.</p> <p><u>'995 patent:</u> Abstract; 2:6-28; 2:64-3:8; 5:3-6:6; 6:10-30; 6:31-38; 6:44-47; 9:61-67; 10:41-47; 11:58-61; 12:18-41; Figs. 1, 8.</p> <p><u>'768 PH:</u> May 18, 2006 Amendment (Ex. D-5) at 10-12.</p> <p><u>'225 PH:</u> Jan. 20, 2010 Amendment (Ex. F-2) at 8, 9; May 10, 2010 Amendment (Ex. F-3) at 9.</p> <p><u>'995 PH:</u> Apr. 27, 2010 Accelerated Pre-Examination Support Document (Ex. E-1) at 138, 144; Sept. 22, 2010 Accelerated Pre-Examination Support Document (Ex. E-3) at</p> | | <p>34; 10:28-40; 11:18-27; 11:28-43; 11:44-12:4; 12:5-14; 12:15-32; 12:33-13:7; 13:27-37; Fig: 1, 8.</p> <p><u>'995 patent:</u> Abstract; 2:58-61; 7:7-10; 7:22-26; 8:25-28; Figs. 1, 8.</p> <p>'225 Patent Prosecution History (Ex. F-3) May 10, 2010 Response to Office Action at 8-9; 2-6; 8-11; 13-15.</p> <p>'768 Patent Prosecution History (Ex. D-6) May 5, 2007 Response to Office Action at 12-14.</p> <p>'768 Patent Prosecution History (Ex. D-5) May 18, 2006 Response to Office Action at 8-14.</p> |

| No. | Claim Language | Ds' Construction | Ds' Intrinsic Evidence Citations | P's Construction | P's Intrinsic Evidence Citations |
|---|---|---|--|------------------|--|
| | | | 168, 176. | | |
| 2. <u>'995:</u> 1, 8, 15 <u>'225:</u> 1, 8 | subscriber specific messages / third party messages | Messages containing information about a specific subscriber to the telecommunications network; / messages containing information about a party who is not a subscriber to the telecommunications network; | <u>'225 patent:</u> Abstract; 1:64-67. <u>'995 patent:</u> Abstract; 2:8-11. <u>'768 PH:</u> May 18, 2006 Amendment (Ex. D-5) at 11. <i>Subscriber specific:</i> <u>'225 patent:</u> 2:62-65; 5:65-6:12; 6:19-26; 8:12-25; 9:42-48; 12:17-20. <u>'995 patent:</u> 3:5-8; 6:10-24; 6:31-38; 8:25-38; 9:55-61; 12:30-33. <i>Third party messages:</i> <u>'225 patent:</u> 2:8-11; 2:62-65; 5:65-6:1; 6:12-18; 6:56-60; 8:12-25; 9:52-55; 10:34-37; 11:14-17. | ordinary meaning | <u>'225 patent:</u> <i>Messages specific:</i> Abstract 1:62-2:7; 5:62-6:18; 6:39-41; 6:51-7:12 <i>Third Party:</i> Abstract; 1:61-2:7; 2:53-3:10; 5:62-6:18; 6:27-50; 6:51-7:12; 8:7-8:25; 9:35-56 <u>'995 patent:</u> Abstract; 3:1-21. <i>'768 Patent Prosecution History (Ex. D-5) May 18, 2006 Response to Office Action at 8-14.</i> |

| No. | Claim Language | Ds' Construction | Ds' Intrinsic Evidence Citations | P's Construction | P's Intrinsic Evidence Citations |
|---|---|---|--|------------------|--|
| | | | '995 patent: 3:5-8; 6:10-13; 6:24-30; 7:1-5; 8:25-38; 9:65-67; 10:47-50; 11:27-30. | | |
| 3. <u>'995:</u> 1, 8, 15 <u>'225:</u> 1, 8 | a processor / a processor coupled with the message database | A device that processes computer instructions | <p><u>'225 patent:</u> 3:65-67; 4:19-22; Figs. 1, 3.</p> <p><u>'995 patent:</u> 4:9-11; 4:30-33; Figs. 1, 3.</p> <p><u>'768 Patent PH:</u> Originally-filed Application (Ex. D-1) at 28; Dec. 27, 2004 Amendment And Remarks In Response to Final Rejection (Ex. D-4) at 2; May 18, 2006 Response to Office Action (Ex. D-5) at 10.</p> <p><u>'995 Patent PH:</u> Apr. 27, 2010 Accelerated Examination Pre-Examination Support Document (Ex. E-1) at 6, 18, 35, 42.</p> | ordinary meaning | <p><u>'225 patent:</u> Abstract; 1:62-2:7; 2:8-12; 2:53-3:10; 3:63-4:6; 4:7-4:22; 5:62-6:18; 6:27-6:51; 7:61-8:6; 8:7-8:25; 8:50-9:5; 9:35-9:56; 10:41-10:65; 13:27-13:37; Figs.1, 3.</p> <p><u>'995 patent:</u> Abstract; 5:46-6:10; 6:63-7:14; Figs. 1, 3.</p> <p><u>'225 Patent Prosecution History (Ex. F-3)</u> May 10, 2010 Response to Office Action at 8-9.</p> <p><u>'225 Patent Prosecution History (Ex. F-2)</u> January 20, 2010 Response to Office Action at 9-14.</p> <p><u>'768 Patent Prosecution History (Ex. D-5)</u> May 18, 2006 Response to</p> |

| No. | Claim Language | Ds' Construction | Ds' Intrinsic Evidence Citations | P's Construction | P's Intrinsic Evidence Citations |
|---|---|---|--|------------------|--|
| | | | | | Office Action at 8-14. '768 Patent Prosecution History (Ex. D-7) August 23, 2005 Response to Office Action at 14-15. |
| 4. <u>'995:</u> 1, 15 <u>'225:</u> 1, 8 | classify / classifying / classification | Identify/identifying/identification of a previously-defined group | <u>'225 patent:</u> 4:23-37; 5:62-6:19; 6:39-56; 6:60 -7:2; 8:14-19; 8:35-38; 10:28-37; 10:41-47; 11:56-58. <u>'995 patent:</u> 4:34-48; 6:7-30; 6:51-7:14; 8:27-32; 10:41-50, 10:54-60; 12:2-5. <u>'995 PH:</u> Apr. 27, 2010 Accelerated Examination Pre-Examination Support Document (Ex. E-1) at 138; Aug. 9, 2010 Examiner's Amendment (Ex. E-2) at 3-5; Sept. 22, 2010 Accelerated Examination Pre- | ordinary meaning | <u>'225 patent:</u> Claim 1, 5, 6, 7, 8, 12, 13, 14; Abstract; 1:38-1:58; 1:62-2:7; 2:46-2:48; 2:53-3:10; 4:59-4:65; 4:66-5:10; 5:21-5:33; 5:62-6:18; 6:27-6:50; 6:51-7:12; 7:61-8:6; 8:7-8:25; 8:26-8:34; 9:35-9:56; 9:57-10:13; 10:14-10:27; 10:66-11:17; 11:44-12:4; 12:5-12:14; 12:15-12:32; 12:49-12:61; 12:62-13:7; 13:27-13:37; 13:50-14:7; 14:8-14:15; 14:16-14:17; 14:18-14:19; 14:20-14:22; 14:34-14:53; 14:54-14:61; 14:62-14:63; 14:64-14:65; 14:66-14:67; 15:1-15:2 <u>'995 patent:</u> |

| No. | Claim Language | Ds' Construction | Ds' Intrinsic Evidence Citations | P's Construction | P's Intrinsic Evidence Citations |
|-----------------------------------|--|--|---|------------------|--|
| | | | Examination Support Document (Ex. E-3) at 167, 176, 179, 181, 185, 188, 190-91. <u>'225 PH:</u> Jan. 20, 2010 Amendment (Ex. F-2) at 10, 11. | | Abstract; 2:16-19; 2:64-3:21; 3:22-3:32; 3:48-4:6; 5:46-6:10; 6:11-30; 6:31-38; 6:39-62; 6:63-7:14 '225 Patent Prosecution History (Ex. F-2) January 20, 2010 Response to Office Action at 9-14. '225 Patent Prosecution History (Ex. F-3) May 10, 2010 Response to Office Action at 6-9. '768 Patent Prosecution History (Ex. D-5) May 18, 2006 Response to Office Action at 8-14. |
| 5. <u>'995:</u> 1, 8, 15 | the processor configured to . . . send the selected audio message to the source of the communication, the destination of the communication, or both, | configured so that the processor is able to send the selected audio message to each of the following: the source, the destination, or the source and the destination | <u>'225 Patent:</u> 3:7-10; 4:66-5:2; 5:21-39; 5:45-48; 6:3-6; 8:26-32; Fig. 8. <u>'995 patent:</u> 3:18-21; 5:10-13; 5:34-51; 5:57-60; 6:15-18; 8:39-45; Fig. | ordinary meaning | <u>'225 patent:</u> Abstract 1:62-2:7; 2:8-2:12; 2:53-3:10; 3:22-3:26; 3:36-58; 3:63-4:6; 4:7-4:22; 5:34-5:61 |

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| | | | <p>8.</p> <p><u>'768 PH:</u> Apr. 20, 2004 Amendment Under 37 C.F.R. § 1.111 (Ex. D-2) at 14; June 22, 2004 Office Action (Ex. D-3) at 4-5; Dec. 27, 2004 Amendment and Remarks In Response to Final Rejection (Ex. D-4) at 2, 11; May 18, 2006 Response to Office Action (Ex. D-5) at 10, 11, 12, 13.</p> <p><u>'225 PH:</u> Jan. 20, 2010 Amendment In Response to Non-Final Office Action (Ex. F-2) at 9.</p> <p><u>'995 PH:</u> Apr. 27, 2010 Accelerated Examination Pre-Examination Support Document (Ex. E-1) at 14, 24, 139.</p> | | <p>5:62-6:18; 6:19-6:26; 6:27-6:50; 6:51-7:12; 7:61-8:6; 8:7-8:25; 8:26-8:34; 8:50-9:5; 9:35-9:56; 10:41-10:65; 10:66-11:17; 13:50-14:7; 14:8-14:15; 14:34-14:53; Fig. 8.</p> |

| No. | Claim Language | Ds' Construction | Ds' Intrinsic Evidence Citations | P's Construction | P's Intrinsic Evidence Citations |
|-----------------------------------|--|---|--|---------------------|---|
| 6. <u>'995:</u> 2, 9, 15 | destination is not available ² | "when /if the called party is using the destination equipment or the destination equipment is turned off" | <u>'995 patent:</u> 9:25-28; Figs. 2, 4. <u>'995 PH:</u> Apr. 27, 2010 Accelerated Examination Pre- Examination Support Document (Ex. E-1) at 139, 141, 142-43; Sept. 22, 2010 Accelerated Examination Pre- Examination Support Document (Ex. E-3) at 178, 180, 182, 187, 189, 191. | ordinary meaning | <u>'225 patent:</u> Claim 1, 2, 4, 7, 8, 9, 11, 14; Abstract; 3:1-58; 4:38-65; 4:66-5:10; 5:21-33; 6:26-50; 6:51- 7:12; 8:7-25; 9:6-20; 9:35-56; 10:1-13; 12:15- 32; 12:49-61; Fig. 8. <u>'995 patent:</u> 8:47-62; 9:1-33; Figs. 2, 4. 225 Patent Prosecution History (Ex. F-2) January 20, 2010 Response to Office Action at 9-14. '768 Patent Prosecution History (Ex. D-5) May 18, 2006 Response to Office Action at 8-14. |
| 7. <u>'225:</u> | wherein the classification is based on one or more factors selected from the | Indefinite | <u>'225 patent:</u> Claims 7, 14. | ordinary meaning | <u>'225 patent:</u> Claim 1, 5, 6, 7, 8, 12, 13, 14; Abstract; 1:38- |

² Although claims 2 and 9 of the '995 Patent recite the phrase "if the destination in not available," the parties agree that the claim language should actually recite "if the destination is not available."

| No. | Claim Language | Ds' Construction | Ds' Intrinsic Evidence Citations | P's Construction | P's Intrinsic Evidence Citations |
|-----|--|------------------|--|------------------|--|
| 7 | group consisting of user preferences, language, communication source, communication type, time of day, communication destination, and geography, at least one advertisement in the advertisement database with a source of the incoming communication and with a destination of the incoming communication | | <u>'225 PH:</u> Jan. 10, 2010 Amendment (Ex. F-2) at 2, 4, 8, 9-11; Aug. 17, 2010 Supplemental Amendment Submitted with Petition for Withdrawal from Issue under 37 CFR 1.313 (Ex. F-4) at 3-4, 5, 7; Sept. 21, 2010 Supplemental Amendment under 37 CFR 1.111 (Ex. F-5) at 3-4, 5, 6. | | 1:58; 1:62-2:7; 2:46-2:48; 2:53-3:10; 4:59-4:65; 4:66-5:10; 5:21-5:33; 5:62-6:18; 6:27-6:50; 6:51-7:12; 7:61-8:6; 8:7-8:25; 8:26-8:34; 9:35-9:56; 9:57-10:13; 10:14-10:27; 10:66-11:17; 11:44-12:4; 12:5-12:14; 12:15-12:32; 12:49-12:61; 12:62-13:7; 13:27-13:37; 13:50-14:7; 14:8-14:15; 14:16-14:17; 14:18-14:19; 14:20-14:22; 14:34-14:53; 14:54-14:61; 14:62-14:63; 14:64-14:65; 14:66-14:67; 15:1-15:2 <u>'995 patent:</u> 2:16-19; 2:64-3:21; 3:22-3:32; 3:48-4:6; 5:46-6:10; 6:11-30; 6:31-38; 6:39-62; 6:63-7:14 '225 Patent Prosecution History (Ex. F-2) January 20, 2010 Response to Office Action at 9-14. |

| No. | Claim Language | Ds' Construction | Ds' Intrinsic Evidence Citations | P's Construction | P's Intrinsic Evidence Citations |
|-------------------------------------|-------------------------------------|------------------|--|------------------|---|
| | | | | | <p>'225 Patent Prosecution History (Ex. F-3) May 10, 2010 Response to Office Action at 6-9.</p> <p>'768 Patent Prosecution History (Ex. D-5) May 18, 2006 Response to Office Action at 8-14.</p> |
| 8. <u>'225:</u> 1, 2, 8, 9 | cause the message ... to be applied | send the message | <p><u>'225 patent:</u> 4:56-58; 4:66-5:4; 7:9-12; Figs. 1, 2, 8.</p> <p><u>'768 PH:</u> May 18, 2006 Response to Office Action (Ex. D-5) at 10, 11.</p> <p><u>'225 PH:</u> Originally-filed Application (Ex. F-1) at claim 1; Jan. 20, 2010 Amendment (Ex. F-2) at 2, 11-12.</p> | ordinary meaning | <p><u>'225 patent:</u> Claim 1, 2 and 8; 5:11-20; 7:61-8:6; 8:7-25; Figs. 1, 2, 8.</p> <p>'225 Patent Prosecution History (Ex. F-2) January 20, 2010 Response to Office Action at 9-14.</p> <p>'768 Patent Prosecution History (Ex. D-7) August 23, 2005 Response to Office Action at 14-15.</p> <p>'768 Patent Prosecution History (Ex. D-4) December 22, 2004</p> |

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|-----|----------------|------------------|----------------------------------|------------------|---|
| | | | | | <p>Response to Office Action received by the PTO on December 27, 2004, at 11-13.</p> <p>768 Patent Prosecution History (Ex. D-2) April 9, 2004 Response to Office Action received by the PTO on April 13, 2004, at 14-17.</p> |